



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

Form To Be Used By A Prisoner in Filing a Complaint
Under the Civil Rights Act, 42 U.S.C. § 1983

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JAN 11 2012

DAVID J. MALAND, CLERK
BY
DEPUTY

Richard, L. Harrell #766640

Plaintiff's name and ID Number

BARRY Telford Unit

Place of Confinement

CASE NO: 512 CV 003
(Clerk will assign the number)

v.

DANA GERONDIS, 3899 State Hwy 98, New Boston, TX 75570
Defendant's name and address

Frederick L. Goode, 3899 State Hwy 98, New Boston, TX 75570
Defendant's name and address

James M. Burgess, 3899 State Hwy 98, New Boston, TX 75570
Defendant's name and address
(DO NOT USE "ET AL.")

(See Attach Pages)

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of Texas prison units indicating the appropriate District Court, the Division and an address of the Divisional Clerks.

JOSHUA L. ARMSTRONG, 3899 State Hwy 98, New Boston, TX 75570
Defendant

BLAKE A. LYONS, 3899 State Hwy 98, New Boston, TX 75570
Defendant

AARON C. BRANAM, 3899 State Hwy 98, New Boston, TX 75570
Defendant

SHAKEERA JOHNSON, 3899 State Hwy 98, New Boston, TX 75570
Defendant

Each Defendant is sued individually and not his or her official capacity.
At all times mentioned in this complaint each defendant acted under the color of state law

CASE NO. _____

FILING FEE AND IN FORMA PAUPERIS

1. In order for your complaint to be filed, it must be accompanied by the filing fee of **\$350.00**.
2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth the information to establish your inability to prepay the fees and costs or give security therefore. You must also include a six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.
3. 28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files and appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire **\$350** filing fee has been paid.
4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motions(s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedures.

I. PREVIOUS LAWSUITS:

- A. Have you filed any other lawsuits in the state or federal court relating to imprisonment? X YES NO
- B. If your answer to "A" is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: ? 12/1997
 2. Parties to previous lawsuit:
 Plaintiff(s): Richard Harell
 Defendant(s): I.D.C.J
 3. Court (If federal, name the district; if state, name the county) Northern District
 4. Docket Number: ?- papers misplaced
 5. Name of judge to whom case was assigned: ?- papers misplaced
 6. Disposition: (Was the case dismissed, appealed, still pending?)
 Dismissed
 7. Approximate date of disposition: 1997

II. PLACE OF PRESENT CONFINEMENT: Barry Telford Unit

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted both steps of the grievance procedure in this institution? X YES NO

Attach a copy of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THE SUIT:

A. Name of address of plaintiff: Richard L. Harrell - Telford Unit, 3899 State Hwy 98, New Boston, Texas 75570

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: DANA Grounds; WARDEN II, Barry Telford Unit, 3899 State Hwy 98, New Boston, Texas 75570

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

legally responsible for operations of Telford Unit and for all inmates of that Unit, learned of violation of Right VZA E-127, failed to do

Defendant #2: Frederick L. Gwoch; Ad Seg Captain; Telford Unit, 3899 State Hwy 98, New Boston, Texas 75570

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

learned of violation through personal interview with plaintiff, failed to take action; Direct supervisor of Ad Seg

Defendant #3: James M. Burgess; Ad Seg lieutenant; Telford Unit 3899 State Hwy 98; New Boston Texas, 75570

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Took control of use of force and encouraged officer Joshua Armstrong illegal acts by participating and encouraging him

Defendant #4: Joshua D. Armstrong, Correctional Officer, Telford Unit 3899 State Hwy 98, New Boston Texas 75570

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Unnecessary, excessive use of force, causing bodily harm namely broken left index finger

Defendant #5: Blake A. Lyons, Correctional Officer, Telford Unit 3899 State Hwy 98, New Boston, TX 75570

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

failure to protect inmate Harrell from physical brutality/excessive use of force

Defendant #6: AARON C. BRANAM, Correctional Officer, Telford Unit 3899 State Hwy 98, New Boston, Texas 75570

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you:

failure to protect inmate Harrell from physical brutality / excessive use of force

Defendant #7: SHAKERRA JOHNSON, Correctional Officer, Telford Unit 3899 State Hwy 98, New Boston, Texas 75570

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you:

failure to protect inmate Harrell from physical brutality / use excessive use of force.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal argument or cite any cases of statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

(See Attach page)

VI. RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite not cases or statutes.

Compensatory damages of \$10,000 Against each defendant, jointly and severally; Punitive damages of \$5,000 Against each defendant, plus \$10,000 for Mental and emotional injuries

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

N/A

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if know to you.

N/A

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ____ YES ☒ NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (If federal, give district and division): _____

2. Case Number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? ____ YES ____ NO

V. Statement of Claim:

On August 22, 2011 on the BARRY Telford Unit in New Boston, Texas 75570, At Eight building (8), Inmate Barber Shop, Inmate Richard Harrell, Plaintiff, upon getting permission from the building's SUPERVISOR SERGEANT "Charles A. Thomas," to enter the barber shop to speak with another inmate Hubbard #1352665. Officer Joshua Armstrong did enter barber shop aggressively and stated that "I need to get out the barber shop. At that time I did inform officer Armstrong that I did have permission from the sergeant to be in the Barber Shop. Officer Armstrong did become belligerent and told me to "Get my dumb A-S out the Barber shop. Now" I then told inmate Hubbard that I would talk to him later and exited the barber shop. Upon exiting I told Officer Joshua Armstrong that "He needs to learn how to talk with his dumb A-S." and turned to go back to my housing area.

Officer Joshua Armstrong, then Aggressed me from behind by grabbing me by my left elbow and left Index finger which he forcefully twisted causing it to break, he swung me to the ground and landed numerous punches to my head and face.

Officers Blake A. Lyons, Aaron Brandom and Shakeera Johnson did witness this incident unfold, but took no step to stop or assist in any matter, but Officer Shakeera Johnson did yell out "Don't do that bull-shit while I'm here"

At that time, 8 building Sergeant "Charles A. Thomas" came and pulled Officer Joshua Armstrong off Inmate Harrell, he then tried to place handcuffs restraints on Inmate Harrell, when Officer Joshua Armstrong came and hit Inmate Harrell in the face again, Sgt Thomas then ordered Officer Brandom to hold Officer Joshua Armstrong, and called in a major use of force to his supervisor "LT. James M. Burgess, After being escorted to medical and placed in 12 building holding cell. Pending Pre-hearing Detention.

While in the holding cell, LT. James M. Burgess was on the phone instructing Officer Joshua Armstrong on what type of disciplinary report to write and what to say on use of force report to justify his actions. LT. James M. Burgess also participated with Officer Joshua Armstrong in further harassment by threatening more bodily harm, while I was in the holding cage in 12 building, even making an attempt to open the holding cage but grabbed the wrong keys. Also threatened to throw inmate's Harrell use of force ~~and~~ report witness statement in the trash if it took over five minutes to fill it out.

On 8/24/11 an I-127 was filed to Warden Dana Gooden complaining of excessive use of force and asked that an staff complaint be filed but none of this was addressed or rep'd from her. Two weeks later inmate Harrell was interviewed by Captain Gooden he failed to take any notes at all and took no action.

PLEASE Note A Declaration of Facts by Eye-witness Dennis Hubbard #1352665 Included with this complaint to be labeled Exhibit "A"

C. Has any court ever warned or notified you that sanctions could be imposed? ____ YES ☒ NO

D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed.
(If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date warning were imposed: _____

Executed on: _____
(Date)

Richard Haggell
(Printed Name)
[Signature]
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachment thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits are dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger or serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire **\$350** filing fee and costs assessed by the Court, which shall be deducted in accordance with the law from the inmate account by my custodian until the filing fee is paid.

Signed this 6 day of JAN, 20 12.
(Day) (Month) (Year)

Richard Haggell
(Printed Name)
[Signature]
(Signature of Plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limbed to monetary sanctions and/or the dismissal of this action with prejudice.